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No. 714

Supreme Court, U.S.
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In the Supreme Court of the United States

OCTOBER TERM, 1970

DAVID LEE ZEJOFF, PETITIONER

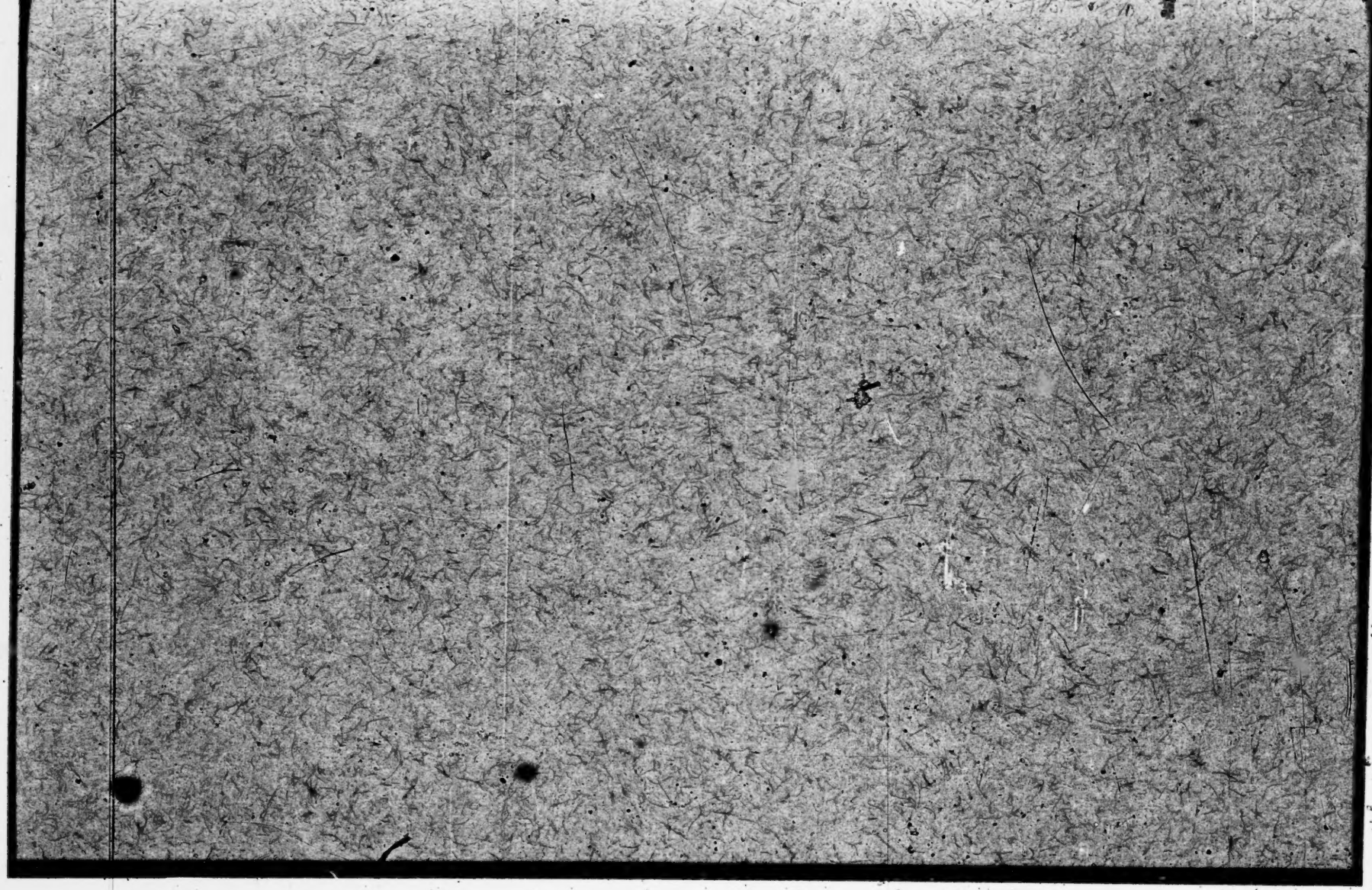
v.

UNITED STATES OF AMERICA

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

MEMORANDUM FOR THE UNITED STATES IN OPPOSITION

ERWIN N. GRISWOLD,
Solicitor General,
Department of Justice,
Washington, D. C. 20530.



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On February 18, 1969 petitioner pleaded guilty in the United States District Court for the Southern District of Illinois to one count of a three count indictment charging the uttering and publishing of a United States Treasurer's check which contained a forged endorsement, with intent to defraud the United States in violation of 18 U.S.C. 495. The other two counts were dismissed on the motion of the government.

Petitioner was tentatively sentenced to ten years imprisonment on May 27, 1969, pursuant to the study

and evaluation provisions of 18 U.S.C. 4208 (b), and was committed to the custody of the Attorney General for a period of 90 days to determine whether the sentence should be modified. On September 25, 1969, petitioner reappeared in court with his attorney. The court conducted an extended colloquy primarily concerned with petitioner's contention that he had understood that he was to serve only three months. The court concluded that petitioner had been fully aware that the three month period was only for evaluation, and then reduced the sentence, in light of the study, to three years, with eligibility for parole at such time as the Board of Parole might determine under 18 U.S.C. 4208 (a) (2). On appeal, the court of appeals found that the plea was knowingly and voluntarily entered (Pet. App. A).

The petition renews the attack on the validity of the plea. We note that it is substantially out of time under Rule 22 (2) of the Rules of this Court. In any event, the comprehensive opinion of the court of appeals fully answers petitioner's contentions. Accordingly, the petition for a writ of certiorari should be denied.

Respectfully submitted.

ERWIN N. GRISWOLD,
Solicitor General.

OCTOBER 1970.

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